

REMARKS

Applicants submit this response to the Office Action dated January 25, 2005.

Pursuant to 37 C.F.R. § 1.111, Applicants request reconsideration of each and every grounds of rejection set forth in the Office Action.

Claims 1-4, 6, 7, 9-11, and 16-22 are currently pending in this application. The Office Action indicates that claims 16, 18, and 20-22 are allowable. Applicants appreciate the Office Action's acknowledgment that these claims are patentable.

The Office Action rejected claims 1-4, 6, and 7 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,179,517 to Nelson (hereinafter "*Nelson*"). The Office Action rejected claims 9-11, 17, and 19 under 35 U.S.C. § 103(a) as being unpatentable based on *Nelson* in combination with U.S. Patent 4,434,578 to Rumpz (hereinafter "*Rumpz*"). Claim 9 was objected to because of the use of certain phraseology.

Applicants respectfully traverse the rejection of claims 1-4, 6 and 7 under 35 U.S.C. § 102(e) as anticipated by Nelson. *Nelson* fails to disclose or suggest, among other things, an adaptive control circuit that monitors signals related to motor shaft position, as required in claims 1 and 2. As explained in the application at page 26, lines 4, *et seq.*, this arrangement has various advantages, such as improved timing and control. Also, *Nelson* fails to disclose or suggest that the motor shaft position signals are indicative of gate position and/or speed as in claims 3, 4, 6 and 7. Instead, *Nelson* is silent as to the generation of such position and/or speed indicating signals and the monitoring thereof in any adaptive control system.

Furthermore, Applicants submit that claims 9-11, 17 and 19 are not rendered obvious under 35 U.S. § 103 based on a combination of *Nelson* and *Rumpz*. The reasons stated above with respect to claims 1-4, 6 and 7 are also applicable to these claims.

In any event, *Rumpz* discloses an automatic control gate that uses a motor 32 to indirectly drive a screw member 42. The screw member 42, in turn, raises and lowers an inner tube 44 with respect to an outer tube 21A. The inner tube 44 is connected to short levers 54 and 56, which are coupled to each other through shaft 16. As the inner tube 44 is raised or lowered, the levers 54 and 56 rotate the shaft 16 to respectively raise or lower the arm 12. It further includes hangers 26 and 28 that are connected therebetween with trunnion means 22 of the outer tube 21A and the shaft 16. Therefore, the *Rumpz* gate relies on a complex linkage arrangement. In any event, *Rumpz* does not disclose a particular four-bar linkage mechanism that is disposed to “couple one end of said gate arm with the DC motor output” as required by claim 17. Therefore, the *Nelson* and *Rumpz* references, even if combined, clearly do not teach or suggest the aspects of claims 9-11, and 19.

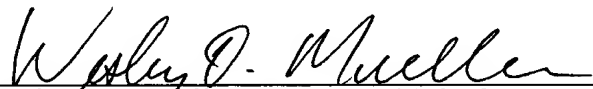
Furthermore, there is no teaching or suggestion to combine the *Nelson* and *Rumpz* references in the manner advanced in the Office Action. There must be some suggestion or motivation in the prior art to modify or combine these references (MPEP § 2143). Each of these references utilize independent and distinct structures for raising and lowering a gate. One of ordinary skill in the art would not be motivated to utilize the levers 54, 56 of *Rumpz* with the gate in *Nelson*. The gate in *Nelson* uses DC pulses with variable pulse width to a control a DC motor and thereby achieve controlled rotation of a drive shaft to raise or lower the gate. *Rumpz* discloses a completely different structure that requires an inner tube, outer tube, and a screw member to raise and lower a gate.

With regard to claim 9, Applicants have amended the language in accordance with the Examiner’s suggestions as to avoid the use of phraseology “banana-shaped.”

Finally, Applicants note that *Rumpz* does not appear to have been cited in the Notice of References Cited accompanying this Office Action. Applicants respectfully request that the Office include *Rumpz* in the Notice of References Cited.

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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